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Department of Defense
INSTRUCTION

11/11/89
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(2)

May 12, 1989
NUMBER 1400.23

ASD(F&P)

SUBJECT: Employment of Family Members of Active Duty Military Members and Civilian Employees Stationed in Foreign Areas

References:

- (a) DoD Instruction 1404.12, "Employment of Spouses of Active Duty Military Members Stationed Worldwide," January 12, 1989
- (b) DoD Directive 1400.13, "Salaries and Personnel Practices Applicable to Teachers and Other Employees of the DoD Overseas Dependents' Schools System," July 8, 1976
- (c) DoD 1401.1-M, "Personnel Policy Manual for Nonappropriated Fund Instrumentalities," February 1987 authorized by DoD Instruction 1401.1, November 15, 1985
- (d) Federal Personnel Manual (FPM), Chapters 213, 310, and 315, Subchapter 6
- (e) through (f), see enclosure

A. PURPOSE

This Instruction establishes DoD policy, responsibilities, and procedures to improve employment opportunities for family members of U.S. Armed Forces personnel and civilian employees of U.S. Government Agencies stationed in foreign areas.

B. APPLICABILITY AND SCOPE

This Instruction:

1. Applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Joint Staff, the Unified and Specified Commands, the Defense Agencies, and DoD Field Activities (hereafter referred to collectively as "DoD Components").
2. Applies to, but is in addition to and separate from, the preference that a military spouse may be entitled to under reference (a).
3. Does not apply to employment with the National Security Agency (NSA), the Defense Intelligence Agency (DIA), or to those organizations in the DoD Components that have as a primary function intelligence, counterintelligence, investigative, or any unique national security responsibilities.
4. Does not apply to journeyman level positions covered by mandatory mobility agreements.
5. Does not apply to the employment of educators with the DoD Dependents Schools System (DoDDSS). Family member applicants for educator positions with this system shall be given preference in accordance with reference (b).

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6. Does not apply to family members of locally hired civilian employees.

C. DEFINITION

Family Member. The spouse, or unmarried dependent children, including stepchildren, adopted children, and foster children not more than 23 years of age residing with a member of the U.S. Armed Forces or a U.S. citizen civilian employee of a U.S. Government Agency, including nonappropriated fund activities whose duty station is in a foreign area. Once appointed, unmarried dependent children may be retained until their sponsor departs from the commuting area of his or her duty station or completes current period of service requirement, whichever occurs first.

D. POLICY

It is DoD policy that:

1. Family members shall be given preference in employment when filling positions competitively at the GS-1 through GS/GM-15 level (and equivalent) designated for U.S. citizen occupancy through external placement procedures in the absence of a military spouse entitled to preference in employment under DoD Instruction 1404.12 (reference (a)). This preference shall apply only to initial employment into a continuing position including temporary positions of 1 year, or longer, at each duty location. Family member preference shall not be given when doing so shall contravene existing statutes or regulations on veterans' preference or nepotism.
2. Family members shall be given preference in employment in nonappropriated fund positions. Consideration and appointment shall be in accordance with DoD 1401.1-M (reference (c)).
3. To expand employment opportunities for family members, commanders shall utilize, to the maximum extent possible, foreign national positions for U.S. citizen occupancy as the positions become vacant for recruitment from outside the current foreign national work force. The exceptions may be if such employment is contrary to treaties or other international agreements, or the commander determines that it is essential for mission effectiveness to retain foreign national incumbency in a specific position. When qualified family members are available to fill such positions, they shall be afforded preference under this Instruction.
4. Family member preference shall be applied equitably and reciprocally across DoD Component lines.
5. Family members transported to foreign areas at the sponsor's expense shall be entitled to the same employment preference as those transported at Government expense.
6. Family members shall not be given employment preference on the basis of the sponsor's rank.

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7. Preference shall apply in foreign national positions to family members who are not U.S. citizens. However, such family members shall be employed under employment terms and conditions prescribed in host country legislation or agreements.

E. RESPONSIBILITIES

1. The Assistant Secretary of Defense (Force Management and Personnel) (ASD(FM&P)) shall establish and administer the policies and procedures in this Instruction to provide for an enhancement of employment opportunities for family members of U.S. Armed Forces personnel and civilian employees of U.S. Government Agencies stationed in foreign areas.

2. The Heads of DoD Components shall issue internal regulations to implement this Instruction.

F. PROCEDURES

1. Family members without competitive civil service status or reinstatement eligibility, who receive preference, shall be appointed under the special Schedule A appointment authority 213.3106(b)(6) (reference (d)). Employment under the Schedule A authority may not extend longer than 2 months following the transfer of the sponsor from the commuting area of his or her duty station, the separation of the appointee's sponsor, or beyond the time the employee ceases to be a family member.

2. Exceptions to the policy in subsection F.1., above, may be approved for extensions of up to 1 year for any family member when the DoD Component concerned determines that additional employment is in the interest of management or for humanitarian reasons such as the death of the sponsor. That authority shall be used very sparingly, and such extensions shall be approved by the Director of Civilian Personnel of the DoD Component concerned or his or her designated representative.

3. Overseas commanders shall ensure that job information is provided in a manner reasonably designed to reach family members of U.S. Armed Forces personnel and DoD civilian employees whose permanent duty stations are in the same commuting area as the area where the position is located.

4. The Heads of DoD Components may establish guidelines for approving exceptions to employment priorities. Exceptions shall be rare and shall be based only on compelling hardship to the DoD Component mission or to the applicant.

5. Family members may file applications for employment with overseas civilian personnel offices 30 days before their anticipated arrival within the command. However, family members may not receive preference until actually arriving at the overseas location.

6. Family members who have less than 6 months remaining in the area may be nonselected for permanent continuing positions.

7. The appointment of family members under this Instruction is subject to the regulations and restrictions on employment of relatives under Chapter 310 of the FPM (reference (d)).

8. When family member employment is authorized for foreign national positions, such employment shall be under the special Schedule A authority only (reference (d)). Family members in these positions may be subject to separation or reassignment therefrom, if the position is required for the placement of a current foreign national employee through reduction-in-force procedures. Veterans' preference does not apply to positions designated for foreign national occupancy. Family members who are not U.S. citizens shall be given equal consideration with U.S. citizen family members for foreign national vacancies, except when doing so would conflict with host-nation law or agreements with the host nation.

9. Individuals appointed under this policy shall be advised by the servicing civilian personnel office of the following procedures available for continuing employment on returning to the United States (including Guam, Puerto Rico, and the Virgin Islands):

a. Family members who are employed overseas under career or career-conditional appointments, have personal career status, or who are eligible for appointment under E.O. 12362 (reference (e)), as amended, may register for placement assistance through the DoD Priority Placement Program at the time of their sponsor's return to the United States. Such registration shall be in accordance with Chapter 6 of DoD 1400.20-1-M (reference (f)).

b. Family members, who were employed overseas under the special Schedule A authority, overseas limited authority, or other nonpermanent local hire appointment authority, provided they meet the conditions of eligibility in the FPM, Chapter 315, Subchapter 6 (reference (d)), may be selected and non-competitively appointed under E.O. 12362 (reference (e)), as amended, on a career-conditional basis to competitive service positions for which they qualify after returning to the United States.

G. EFFECTIVE DATE

This Instruction is effective immediately.

David J. Berneau
DAVID J. BERNEAU
Deputy Assistant Secretary
(Resource Management & Support)

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Enclosure
References

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REFERENCES, continued

- (e) Executive Order 12362, as amended, "Overseas Employment," May 12, 1982
- (f) DoD 1400.20-1-M, "DoD Program for Stability of Civilian Employment," April 1988, authorized by DoD Directive 1400.20, June 16, 1981